

REMARKS

The Applicant does not believe that examination of the foregoing amendment will require any additional searching or result in the introduction of new matter into the present application for invention. Therefore, the Applicant, respectfully, requests that the foregoing amendment be entered and that the claims to the present application, kindly, be reconsidered.

The Final Office Action dated January 31, 2005 has been received and considered by the Applicants. Claims 1-20 are pending in the present application for invention. Claims 1-20 are rejected by the January 31, 2005 Final Office Action.

The Final Office Action rejects Claims 1-20 under the provisions of 35 U.S.C. §103(a), as being obvious over U. S. Patent No. 6,452,893 issued in the name of Wahl (hereinafter referred to as Wahl) in view U. S. Patent No. 5,631,882 issued in the name of Mascenik (hereinafter referred to as Mascenik). The Examiner's position is that Wahl discloses a disk recording apparatus showing many of the limitations recited by rejected Claims 1 and 11, including the feature of transporting at least two information plates between a storage position and a playing position, and the feature of the intermediate memory for the storage. The Examiner states that Wahl does not disclose the feature of alternately moving the information plates between a transfer position and a storage position wherein at least two separate storage compartments are provided for the information plates that are placed within the transfer position and the storage position.

The Applicant, respectfully, points out that the previous non-final office action objected to Claim 4, but that there was no rejection to Claim 4. The amendment to Claim 1 (from which Claim 4 depends) did nothing to cause the new rejection. In the Final Office Action, the Examiner employs a new rejection to Claim 4 based on the previously cited reference Wahl. There is no reason why this rejection was not previously made.

The Examiner made the January 31, 2005 Office Action final based on the assertion that Applicant's amendment necessitated a new ground(s) of rejection. The Applicant hereby asserts the finality of the January 31, 2005 Office Action is premature. The MPEP §706.07 details when a Final Rejection is proper on second action.

"Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c)."

The previous amendment submitted September 9, 2004 by the Applicant amended claim 1 of the present application for invention for clarification purposes. Claim 4 was not amended. Claim 4 depends from Claim 1 and the subject matter defined by rejected Claim 4 contains exactly the same limitations that were formerly contained prior the amendment submitted September 9, 2004. Accordingly, at least pertaining to Claim 4, the holding of finality is premature. Accordingly, the January 31, 2005 Office Action has been treated as a non-final office action.

The rejection to Claims 4 and 14 asserts that Wahl at col. 3, lines 18-23 teaches that a plurality of copies of an information plate can be made within a single copying cycle. The Applicant, respectfully, points out that Wahl at col. 3, lines 18-23 teaches that two CD's can be inserted into the transportation tray taught therein so that the user can write to both of them. There is no disclosure, or suggestion, within Wahl for making a plurality of copies of an information plate can be made within a single copying cycle as defined by rejected Claims 4 and 14. Therefore, the foregoing amendment to the claims has modified independent Claims 1 and 11 to include the features of Claim 4 and 14, which have been cancelled.

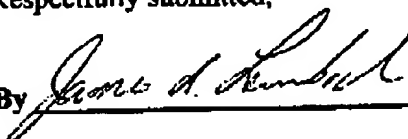
The Applicant, respectfully, points out that Mascenik does not disclose, or suggest, making a plurality of copies of an information plate can be made within a single copying cycle as defined by amended Claims 1 and 11. Therefore, Claims 1 and 11 as amended are believed to be allowable over the cited references.

The remaining claims depend from Claims 1 or 11, either directly or indirectly, and further narrow and define those claims. Therefore, the remaining claims are also believed to be allowable.

Applicant is not aware of any additional patents, publications, or other information not previously submitted to the Patent and Trademark Office which would be required under 37 C.F.R. 1.99.

In view of the foregoing amendment and remarks, the Applicant believes that the present application is in condition for allowance, with such allowance being, respectfully, requested.

Respectfully submitted,

By 

James D. Leimbach
Patent Attorney Reg. No. 34,374
Tel. No. (585) 381-9983

CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence
is being transmitted on this date via
facsimile transmission to (703) 872-9306 AND addressed to:
Mail Stop: Amendment
COMMISSIONER OF PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450

Date of Transmission: March 23, 2005

(Signature)

By:


James D. Leimbach